

NATION'S COPS NEED NEW COMPLAINTS SYSTEM

alrc surveys the options for the Australian federal police & the national crime authority



Photo B Ivanovic courtesy Platypus Magazine

The Australian Law Reform Commission (ALRC) has recently undertaken two related inquiries into complaints against the Australian Federal Police (AFP) and the National Crime Authority (NCA). The ALRC received the AFP reference on 29 March 1995 and the NCA reference on 26 July 1995.

Michael Barnett, Team leader on the reference, reports.

The ALRC has been asked to report on the adequacy of the *Complaints (Australian Federal Police) Act 1981* (Cth) which provides for the making of complaints against the AFP and to recommend a formal system of complaints for the NCA. Currently there is no formal system of complaints against the NCA. Instead the Chairperson of the NCA directs officers to conduct internal investigations and to report to him.

The ALRC released an Issues Paper in November 1995. *Under the Spotlight* (IP 16) examines the current complaints arrangements and respective roles of the AFP and the NCA, discusses other Australian approaches to complaints against the

Nation's cops need new complaints system

• • • • •

police and some overseas models including the United States, New Zealand, England, Canada and Scandinavia.

A number of options are canvassed including:

- changing the police culture about accepting and responding to complaints
- providing greater external review of the complaints process
- introducing greater police responsibility for dealing effectively with complaints and the disciplinary process
- adopting administrative review instead of the traditional quasi-criminal approach to disciplinary proceedings, and
- using alternative dispute resolution (ADR) much more widely to resolve complaints.

ADR could include an informal intermediary stage before any formal inquiry is undertaken, a form of conferencing as used in juvenile justice or using complaints as a basis for wider police — community discourses and programs. Also discussed are the introduction of a charter of rights for complainants and a code of conduct for the AFP and the NCA about their duties and responsibilities in relation to complaints.

The paper also considers in depth major options for external review. Currently the Commonwealth Ombudsman provides external review of AFP investigations of complaints but conducts her own investigations in only a very small number of cases.

One alternative is a fully external watchdog that would carry out all the major functions of the complaints system including investigations of all complaints, except perhaps minor ones. A major argument for this is that it is most likely to achieve the crucial objective of ensuring public confidence that complaints are being investigated and resolved fairly and impartially. An opposing

argument is that a fully external watchdog would absolve the police for responsibility for improving their accountability and would be met by damaging police resistance.

Another issue is whether there should be a specialist police complaints agency as opposed to a generalist Ombudsman. Many overseas countries such as England and New Zealand have specialist Police Complaints Authorities as does South Australia. This question involves an assessment of the effectiveness of the Ombudsman's current role and staffing and resources issues.

The issues paper also discusses the options of the introduction at the federal level of a body similar to the NSW ICAC that specialises in anti corruption prevention and detection or the Queensland Criminal Justice Commission that provides an omnibus approach to central criminal justice issues.

Other options are a civilian review board based upon some American models that has a wide range of community representation and powers to investigate and determine complaints or a federal law enforcement authority with jurisdiction over all aspects of federal law enforcement. The latter could review complaints arising from law enforcement powers not only exercised by the AFP or the NCA but also agencies such as the Australian Taxation Office, the Australian Customs Service, the Australian Securities Commission and the Department of Social Security.

The paper also considers groups in the community who may have special needs in this area, for example, Aborigines and Torres Strait Islanders, people from non-English speaking backgrounds, gays and lesbians, women and people with disabilities.

The closing date for submissions is 29 February 1996 and the final reporting date is 30 June 1996.

• • • • •

Collective investments: other people's money (ALRC 65) — recent developments

This report was tabled on 30 September 1993. The federal government announced in February 1995 that it was preparing exposure draft legislation for the regulation of collective investment schemes (eg horse racing syndicates) by the Australian Securities Commission as part of the national Corporations Law, as recommended by the ALRC. The draft legislation, the *Collective Investment Bill*, was released on 12 December 1995.